

UNITED STATES COURT OF APPEALS
TENTH CIRCUIT

SEP 3 1997

PATRICK FISHER
Clerk

GEORGE L. SCHWEITZER,

Plaintiff - Appellant,

v.

DANIEL S. SCHWEITZER; HAZEL
E. WUNDROW HANNEMAN
SCHWEITZER,

Defendants - Appellees.

No. 97-4053

D. Utah

(D.C. No. 96-CV-850-S)

ORDER AND JUDGMENT*

Before **ANDERSON, HENRY**, and **BRISCOE**, Circuit Judges.

After examining the briefs and appellate record, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. See Fed. R. App. P. 34 (a); 10th Cir. R. 34.1.9. This cause is therefore ordered submitted without oral argument.

*This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Plaintiff and appellant George L. Schweitzer, appearing pro se, appeals the dismissal of his First Amended Complaint for failure to state a claim, for failure to show entitlement to relief, and for failure to plead facts necessary to permit defendant and appellee Daniel S. Schweitzer to respond. We conclude that, for substantially the reasons set forth in the district court's order, entered on March 28, 1997, the district court correctly dismissed this action.

Daniel Schweitzer seeks an award of attorney's fees and costs incurred on appeal, on the ground that the appeal is frivolous. See Fed. R. App. P. 38. An appeal is considered frivolous when "the result is obvious, or the appellant's arguments are wholly without merit." Braley v. Campbell, 832 F.2d 1504, 1510 (10th Cir. 1987) (en banc). This appeal is frivolous. Accordingly, appellant George Schweitzer is ordered to show cause within 15 days why attorney's fees and costs should not be assessed against him. See Doyle v. Oklahoma Bar Ass'n, 998 F.2d 1559, 1571 (10th Cir. 1993).

The appeal is DISMISSED. The mandate shall issue forthwith.

ENTERED FOR THE COURT

Stephen H. Anderson
Circuit Judge